

**FILED**

Jun 11 2020

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

**UNITED STATES DISTRICT COURT**

for the

Northern District of California

United States of America )

v. )

WILLIAM ELLIOT MARIGNY, JR., )

Case No. 4 : 20 - mj - 70755 - MAG )

Defendant(s)

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 6, 2019 in the county of Alameda in the  
Northern District of California, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 2422(b)

Coercion and Enticement of a Minor

Penalties:

Mandatory minimum 10 years, maximum lifetime term of imprisonment;

Maximum \$250,000 fine;

Mandatory minimum 5 years, maximum lifetime term of supervised release;

Restitution; forfeiture; mandatory special assessment up to \$50,000 per 18

U.S.C. § 2259A.

This criminal complaint is based on these facts:

Please see attached affidavit of HSI Task Force Officer Darryl J. Holcombe in support of the Criminal Complaint.

(approved as to form SSB AUSA Samantha Schott Bennett)☒ Continued on the attached sheet.

/s/ Darryl Holcombe

*Complainant's signature*

Darryl Holcombe, Task Force Officer, HSI

*Printed name and title*

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P 4.1 and 4(d).

Date: June 10, 2020

*Kandis Westmore*  
*Judge's signature*

City and state: Oakland, California

Hon. Kandis A. Westmore, US Magistrate Judge

*Printed name and title*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AND ARREST  
WARRANT**

I, Darryl J. Holcombe, do swear and affirm as follows:

**I. INTRODUCTION AND PURPOSE FOR AFFIDAVIT**

1. This affidavit is made in support of a criminal complaint charging William Elliot MARIGNY, Jr. (MARIGNY) with one count of Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b). The statements contained in this affidavit are based on my experience and training as a Senior Inspector with the Contra Costa County District Attorney's Office and Task Force Officer with Homeland Security Investigations, and the information provided to me by other law enforcement officers. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that on or about October 6, 2019, in the Northern District of California, MARIGNY violated 18 U.S.C. § 2422(b) by knowingly persuading, inducing, and enticing a minor victim who had not yet attained 18 years of age, and who defendant believed was less than 18 years of age, to engage in sexual activity for which the defendant could be charged with a criminal offense, namely, the production of child pornography under 18 U.S.C. § 2251(a) and California Penal Code § 311.4(b).

**II. AGENT BACKGROUND**

2. I am a Senior Inspector with the Contra Costa County District Attorney's Office, assigned to the Sexual Assault unit. I am also serve as a Task Force Officer with

Homeland Security Investigations. I have been employed with the Contra Costa County District Attorney's Office since November 2011. Prior to that, I was a police officer with the City of Concord for eleven years. I attended a basic police academy in 1999 at the Los Medanos Police Academy. I am authorized to investigate violations of federal law, and to execute warrants issued under the authority of the United States. In this capacity, I investigate criminal violations relating to child exploitation including violations pertaining to the possession, receipt and distribution and production of child pornography as set forth in 18 U.S.C. §§ 2251 and 2252. I have received training in the area of child pornography and child exploitation investigations, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in many forms of media, including computer media.

### **III. APPLICABLE LAW**

3. Under 18 U.S.C. § 2422(b), whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined and imprisoned not less than 10 years or for life.

4. Under 18 U.S.C. § 2251(a), any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any

visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, shall be punished...if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed.

5. Under California Penal Code § 311.4(b), every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or

with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

#### **IV. FACTS ESTABLISHING PROBABLE CAUSE**

##### **A. Summary**

6. William Elliot MARIGNY, Jr. (MARIGNY) is a 40-year-old adult male resident of the Northern District of California.

7. As described further herein, I have learned that MARIGNY utilized a fake Instagram<sup>1</sup> account in order to use, persuade, induce and entice boys aged 12 and 13, in the Northern District of California and elsewhere, to create and send him visual depictions of sexually explicit conduct, and to engage in sexual conduct. Using an Instagram account under an assumed name, MARIGNY purported to be a teenage girl, and convinced the minor victims to send him photos and videos of themselves engaged in sexually explicit conduct. MARIGNY further used Instagram and text messaging to attempt to coordinate meetings with at least one minor victim at locations in the Northern District of California for the purpose of engaging in sexual conduct.

##### **B. Identification of MARIGNY**

8. As described further below, Alameda County Sheriff's Office Detective Sarah Bender took over the accounts of one minor victim – "Minor 1" – with his consent, beginning on or about October 9, 2019. Detective Bender communicated with MARIGNY via Instagram, using MARIGNY's fabricated Instagram account, and via text

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<sup>1</sup> Instagram is a free photo and video sharing app available on Apple iOS, Android and Windows Phone. Instagram users create accounts in order to upload photos or videos to the service and share them with their followers or with a select group of friends. Instagram users can comment on each others' photos, and can also communicate privately through "direct messages."

message to a phone number MARIGNY provided. During messages on Instagram, on or about October 9, 2019, MARIGNY sent the following photo of himself to Detective Bender, and claimed his name was “Spencer.” The original version of the photograph included the fabricated Instagram account name in the top left corner. MARIGNY further advised that he had operated the fabricated Instagram account since it was opened in May 2019, and sent additional photos of himself masturbating.



9. I have reviewed information from the California Department of Motor Vehicles (DMV) for MARIGNY and observed the following photo on file:



Based on my training and experience, and my review of the photographs, I believe that the person depicted in the images sent from the Instagram account is MARIGNY.

10. During the course of their communications, MARIGNY advised Detective Bender that he was flying from Oakland to Los Angeles on October 15, 2019, but that he would be flying back to Oakland in the evening of October 16, 2019. Detective Bender confirmed with Alameda County Sheriff's Office deputies at the Oakland Airport that MARIGNY was scheduled to fly into Oakland at approximately 5:15 p.m. on October 16, 2019. Deputies contacted MARIGNY after he arrived at the airport. Detective Bender called the phone number she had used to communicate via text with MARIGNY, and a phone inside MARIGNY's backpack rang. MARIGNY was arrested.

**C. MARIGNY pretended to be a teenage girl in order to persuade, induce, and entice Minor 1 to engage in sexually explicit conduct for the purpose of producing a visual depiction**

11. Minor 1 is a 13-year-old boy who resides in the Northern District of California. According to my review of Instagram records, as well as information that Minor 1 provided in sum and substance to the Alameda County Sheriff's Office, between at least September 4, 2019, and October 8, 2019, Minor 1 chatted on Instagram with MARIGNY, who was pretending to be a 14-year-old girl. Minor 1 reported that MARIGNY had used an Instagram account with a female name, and that MARIGNY identified himself by the name in the account handle.

12. According to Minor 1, MARIGNY'S Instagram account was populated with images of a young female. MARIGNY and Minor 1 chatted through private messages, or "direct messages" on Instagram. I have reviewed these messages and observed that Minor 1 and MARIGNY first discussed their physical appearance – with MARIGNY still purporting to be a teenage girl – before the chats turned sexual in nature.

MARIGNY sent Minor 1 an image of a young girl to prove to Minor 1 he was also a teenager. Minor 1 told MARIGNY he was 13-years-old, and had information on his profile indicating which school he attended.

13. On or about October 5, 2019, MARIGNY again purported to be a teenage girl while chatting with Minor 1 on Instagram using private messages. I have reviewed these messages. MARIGNY asked Minor 1 what grade he was in and Minor 1 said he was in 8<sup>th</sup> grade. Minor 1 asked MARIGNY what grade he was in, and MARIGNY responded that he was in 9<sup>th</sup> grade. The chat began to turn sexual and MARIGNY asked Minor 1 if Minor 1 wanted to have sex with a boy or a girl. MARIGNY further attempted to convince Minor 1 that he was a teenager and told Minor 1 that he didn't want his dad to see their texts. Minor 1 again told MARIGNY he was 13. MARIGNY told Minor 1 "So you got a nice penis tho." MARIGNY then asked Minor 1, "Is it big?" MARIGNY suggested they meet in person to have sex. MARIGNY and Minor 1 discussed exchanging images of one another and MARIGNY told Minor 1 to take an image during his next bathroom break. Minor 1 sent an image of himself from the waist up, and MARIGNY told Minor 1, "But I want to see more of ur body." Minor 1 then sent MARIGNY an image of Minor 1 with his penis exposed. MARIGNY asked Minor 1, "So it gets bigger." Minor 1 said yes. MARIGNY also told Minor 1, "And ur only 13."

14. On or about October 6, 2019, MARIGNY again purported to be a teenage girl while chatting with Minor 1 via Instagram private messages. MARIGNY asked Minor 1 to videotape himself masturbating. Minor 1 sent MARIGNY an image of Minor 1 holding his erect penis. Minor 1 is completely nude in the image. I have personally



reviewed this image, and based on my training and experience, I believe this image depicts sexually explicit conduct within the meaning of 18 U.S.C. § 2256.<sup>2</sup>

15. Later in the day on or about October 6, 2019, MARIGNY and Minor 1 chatted about meeting each other in person. MARIGNY described what he wanted to do with Minor 1 and suggested they, “Get naked and jerk it haha.” They continued to talk about having sex with each other and then masturbating, and MARIGNY told Minor 1 that MARIGNY needed something to look at. Minor 1 sent MARIGNY two images of himself. Both images depict Minor 1 standing in the bathroom, nude from the waist down. His penis is erect and visible in the images. I have personally reviewed these images, and based on my training and experience, I believe these images depict sexually explicit conduct within the meaning of 18 U.S.C. § 2256.<sup>3</sup>

16. After MARIGNY sent another video of a female masturbating, Minor 1 questioned whether or not MARIGNY was actually a 14-year-old female. MARIGNY admitted to Minor 1 that MARIGNY was allegedly a 28-year-old male instead. MARIGNY sent Minor 1 images and videos of males who were masturbating.

17. During the course of their communications, MARIGNY provided Minor 1 with a phone number to use to contact MARIGNY.

**D. MARIGNY plans meeting with Minor 1 to engage in sexual conduct**

18. On or about October 8, 2019, using Instagram messages and text messages, MARIGNY attempted to get Minor 1 to meet MARIGNY at a location in the

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<sup>2</sup> These images will be made available for the Court’s review when I am contacted to swear out the affidavit. I will maintain the copies of the images during the pendency of the case.

<sup>3</sup> These images will be made available for the Court’s review when I am contacted to swear out the affidavit. I will maintain the copies of the images during the pendency of the case.

Northern District of California to engage in sex acts, including anal sex and oral sex, with him. Minor 1 initially agreed to meet MARIGNY but cancelled the meeting and told MARIGNY he couldn't go through with the meeting.

**E. Investigation of MARIGNY**

19. On or about October 8, 2019, the Alameda County Sheriff's Office initiated an investigation of MARIGNY, after Minor 1's mother reported MARIGNY's communications with Minor 1 to police.

20. On or about October 9, 2019, Alameda County Sheriff's Detective Sarah Bender assumed Minor 1's online identity, with his consent, and engaged in conversations with MARIGNY. These chats occurred on Instagram and via text messaging, at the phone number provided by MARIGNY. During the course of one conversation on or about October 9, 2019, MARIGNY told Detective Bender, who was acting as Minor 1, "So u want me to lay down and u gonna handle everything at ur pace, or u want me to take control, I might be too rough. I want to choke u a little, like gently squeeze." MARIGNY continued to ask for images and videos of Minor 1 masturbating.

21. On or about October 10, 2019, Alameda County Sheriff's Detective Sara Bender obtained a search warrant for MARIGNY'S fabricated Instagram account. The warrant was approved by the Honorable Thomas Rogers, Superior Court Judge for Alameda County.

22. I have reviewed the Instagram records for the Instagram account, which was active between May 1, 2019, through at least October 17, 2019. This information included the messages described above between MARIGNY and Minor 1, and the images and videos they exchanged.

23. Records from MARIGNY's Instagram account show that between May 2019 and October 2019, MARIGNY had communicated with at least eleven minor victims on Instagram, including Minor 1, who sent MARIGNY sexually explicit videos and images at MARIGNY's request. The minor victims resided in the Northern District of California and in North Carolina.

24. Detective Bender continued to communicate with MARIGNY using Minor 1's online identity. MARIGNY made further plans to meet with Detective Bender, whom he believed to be Minor 1, on October 17, 2019, at a location in Oakland, California, to engage in sexual conduct. The day prior, on October 16, 2019, MARIGNY canceled the planned meeting.

25. On October 17, 2019, MARIGNY was arrested at the Oakland Airport in Oakland, California, by Detective Bender and members of the Alameda County Sheriff's Office. When MARIGNY was apprehended, Detective Bender called the phone number which she had contacted while pretending to be Minor 1, and which Minor 1 had used to contact MARIGNY. A cell phone inside MARIGNY's backpack rang when Detective Bender called the phone number.

26. MARIGNY has been charged by the Alameda County District Attorney's Office with Distribution of Child Pornography in violation of California Penal Code § 311.2, Sending harmful matter to a minor in violation of California Penal Code § 288.2, and Arranging to meet a minor for sex in violation of California Penal Code § 288.4. MARIGNY is currently in the custody of the Alameda County Sheriff's Office.

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**V. CONCLUSION**

27. Based on the aforementioned facts and information, there is probable cause to believe that on or about October 6, 2019, in the Northern District of California, MARIGNY violated 18 U.S.C. § 2422(b) by knowingly persuading, inducing, and enticing a minor victim who had not yet attained 18 years of age, and who MARIGNY believed was less than 18 years of age, to engage in sexual activity for which MARIGNY could be charged with a criminal offense, namely, the production of child pornography under 18 U.S.C. § 2251(a) and California Penal Code § 311.4(b).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Darryl Holcombe

Darryl Holcombe, Task Force Officer  
Homeland Security Investigations

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1 and 4(d) this 10th day of June, 2020.

June 10, 2020

Date



HONORABLE KANDIS A. WESTMORE  
United States Magistrate Judge  
Northern District of California